

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 10/4/2022
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JIMMY DELGADO,

Petitioner,

-v.-

EDWARD BURNETT,  
Superintendent of  
the Fishkill Correctional Facility,

Respondent.  
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**ORDER**

22-CV-8366 (VSB) (JLC)

**JAMES L. COTT, United States Magistrate Judge.**

Jimmy Delgado has petitioned this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 and the matter has been referred to the undersigned for report and recommendation (Dkt. No. 7). In accordance with Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, I have considered the petition preliminarily and direct that respondent shall file either an answer or, if respondent has a basis on which to seek to have the petition denied or dismissed that does not require an answer, a motion with respect to the petition. To this end, the Court directs as follows:

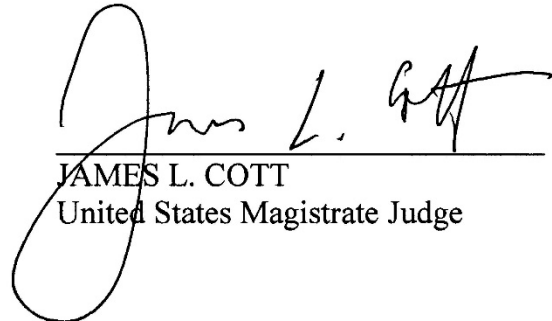
(1) respondent shall file such answer or motion on or before **December 5, 2022**;

(2) the answer or motion shall include an affidavit describing any facts relevant to the answer or motion and all documents necessary for the adjudication of this matter, including but not limited to transcripts of any

- relevant proceedings, the briefs submitted on appeal, the record in any state post-conviction proceedings, and such other information as may be necessary for this Court to adjudicate the petition;
- (3) the submission shall include a memorandum of law fully describing the factual and legal basis underlying the respondent's opposition and each statement of fact therein shall be accompanied by a citation to the appropriate transcript, affidavit, or document by paragraph or page number;
- (4) petitioner shall have **thirty (30) days from the date on which he is served with respondent's papers** to file a response; and the petition will be considered fully submitted as of that date; and
- (5) an extra copy of all papers served and filed shall be sent to the undersigned at 500 Pearl Street, New York, NY 10007.

**SO ORDERED.**

Dated: October 4, 2022  
New York, New York



JAMES L. COTT  
United States Magistrate Judge